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10/015,548	12/11/2001	Robert Crites	10235-026001	4275

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
LASTRA, DANIEL

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3622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>06/22/2007</u>.

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-30* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   Claims 1-30 have been examined. Application 10/015,548 (**METHOD FOR CONTACT STREAM OPTIMIZATION) has a filing date 12/11/2001**

Response to Amendment

2.   In response to Non Final Rejection filed 03/22/2007, the Applicant filed an Amendment on 06/22/2007, which amended claims 1, 7, 11, 22, 24, 28 and 29. Applicant's amendment overcame the Section 112 rejection.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz (US 2001/0014868).

Claim 1, Herz teaches:

A *computer-implemented* method of determining a prioritized listing of offers for use to contact potential customers, the method comprises:

generating *in a computer* an ordered listing of offers from a set of offers, by which to contact a potential customer from a group of potential customers by considering the potential customer independently from others of the potential customers in the group, during generating of the ordered listing of offers for the potential customer (see paragraphs 158, 236-243).

Claim 2, Herz teaches:

The method of claim 1 wherein generating further comprises:

eliminating from the list offers that are mutually exclusive (see paragraphs 236-243).

Claim 3, Herz teaches:

The method of claim 1 wherein the ordered list is prioritized based on highest expected profit (see paragraphs 240, 246, 257-258).

Claim 4, Herz teaches:

The method of claim 1 wherein generating operates on the set of offers for all members of the group of potential customers, by considering each potential customer independently from others of the potential customers in the group (see paragraphs 236-243).

Claim 5, Herz teaches:

The method of claim 1 wherein if the number of offers exceeds the number of offers allocated for customer, the method further comprises:

producing an alternative list having the best n offers (see paragraphs 236, 243, 257-258).

Claim 6, <u>Herz</u> teaches:

The method of claim 1 wherein generating the ordered listing is performed independently for each potential customer in the group of potential customers to produce a list for each potential customer (see paragraphs 257-258).

Claims 7, 20 and 28, <u>Herz</u> teaches:

A *computer-implemented* method of determining a prioritized number of *offers to* contact customers from a group of customers, the method comprises:

determining *in a computer* an ordered set of offers to be sent to each customer, and for each customer, eliminating any offers that are not applicable to the customer based on eligibility rules for the offer or offers for which an expected profit for the customer is below a threshold amount (see paragraph 257); and

ordering remaining offers by expected profit (see paragraphs 237-240; 257-258).

Claims 8 and 21, <u>Herz</u> teaches:

The method of claim 7 further comprising:

producing a proposed solution having the best n offers where n is the lesser of the total remaining offers and the maximum number of offers allowed for the customer (see paragraphs 257-258).

Claims 9, 22 and 29, <u>Herz</u> teaches:

The method of claim 8 wherein the proposed solution is represented as a bit string of a length that is equal to the total of the *remaining* offers (see paragraphs 236-243).

Claims 10, 23 and 30, <u>Herz</u> teaches:

The method of claim 9 wherein the proposed solution is checked against rules of the form (M,S) meaning at most M offers from set S can be sent to a customer (see paragraphs 236-243).

Claims 11 and 24, Herz teaches:

The method of claim 10 wherein if an (M,S) rule is violated, a list of new alternative proposed solutions is generated by: determining a number of bits T > M from a set S that indicate offers should be sent in the proposed solution; generating new alternative proposed solutions that all contain new alternative offers, represented in a bit string by setting T-M number of bits that are not a part of set S, and which immediately follow a last one R1 of the "1" bits 10 in the proposed solution (see paragraphs 257-258).

Claims 12 and 25, Herz teaches:

The method of claim 11 further comprising:

generating alternative proposed solutions based on all combinations of the T "1" bits up to R1 and any "0" bits in set S between R1 and R2 containing M bits set to "1" (see paragraphs 257-258).

Claims 13 and 26, Herz teaches:

The method of claim 12 wherein the new alternative proposed solutions are each merged with any preceding list of proposed solutions (see paragraphs 236-242).

Claim 14, Herz teaches:

The method of claim 13 wherein the list of proposed solutions is checked in decreasing order of profitability (see paragraphs 236-243; 257-258).

Claims 15 and 27, Herz teaches:

The method of claim 13 further comprising:

accommodating a budget by sorting all offers chosen for all customers by return on investment and truncating the bottom of the list (see paragraphs 236-243).

Claim 16, Herz teaches:

The method of claim 13 further comprising:

flagging customers who are truncated for each offer (see paragraphs 257-258); and

rerunning flagged customers after removing exhausted offers and offers that the flagged customers were already approved for, while lowering their max number of allowed offers (see paragraphs 257-258).

Claim 17, Herz teaches:

The method of claim 13 wherein truncating occurs at a boundary defined by a constraint on the method (see paragraphs 257-258).

Claim 18, Herz teaches:

The method of claim 13 wherein truncating is selectable by the user (see paragraphs 257-258).

Claim 19, Herz teaches:

The method of claim 18 wherein truncating occurs based on individual variance of profit from each customer with customers having low variance being truncated for certain offers before customers having high variance (see paragraphs 257-258).

Response to Arguments

4.   Applicant's arguments filed 06/22/2007 have been fully considered but they are

not persuasive. The Applicant argues that <u>Herz</u> does not teach "generating an ordered

listing of offers from a set of offers, by which to contact potential customer from a group

of potential customers by considering the potential customer independently from others

of the potential customer in the group, during generating of the ordered listing of offers

for the potential customer" because according to the Applicant, <u>Herz</u> does not consider

each individual separately. The Examiner answers that <u>Herz</u> teaches creating individual

shopper profile from group shopper profiles (see paragraph 34), however, <u>Herz</u>

automatically constructs product offers tailored to individual shoppers based upon said

individual shopper profile in a way to maximize the vendor's profits (see paragraph 4-5).

Therefore, contrary to Applicant's argument, <u>Herz</u> teaches Applicant's claimed

invention.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of
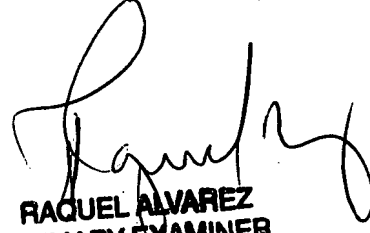
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Lastra
September 11, 2007

RAQUEL ALVAREZ
PRIMARY EXAMINER